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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
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9 JAMES BRANCH,

10 Plaintiff,

11 VS.

12 JAMES BARRETT,
13 WASHINGTON STATE PATROL
14 OFFICER HOYT, STATE OF
15 WASHINGTON, STATE OF
16 WASHINGTON PROSECUTOR'S
OFFICE, and COUNTY OF
WALLA WALLA,

Defendants.

NO. CV-10-5144-JPH

ORDER STRIKING REPORT AND
RECOMMENDATION AND GRANTING
MOTION FOR EXTENSION OF TIME

17 On March 9, 2011, the undersigned judicial officer recommended dismissal of this
18 action as Plaintiff had failed to comply with the directive to either complete and file a
19 financial affidavit as required by 28 U.S.C. § 1915(a)(1), or to pay the \$350.00 filing fee
20 (ECF No. 7). On March 14, and March 16, 2011, Plaintiff submitted documents which
21 the court construes as Motions for Extension of Time (ECF Nos. 8 & 9).

22 Plaintiff failed to note his motions for calendar (and he did not present a
23 memorandum in support of his motions) as required by Local Rule for the Eastern
24 District of Washington 7.1(h). Since this is the first time Plaintiff has failed to do so, the
25 Court has noted Plaintiff's Motions for him on the date signed below. **PLAINTIFF IS**
CAUTIONED THAT ANY FURTHER MOTIONS SUBMITTED TO THE COURT

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27 ORDER STRIKING REPORT AND RECOMMENDATION AND GRANTING
28 MOTION FOR EXTENSION OF TIME -- 1

1 **WITHOUT NOTING THEM FOR HEARING IN COMPLIANCE WITH THE**
2 **LOCAL RULES WILL NOT BE ADDRESSED BY THE COURT.** Plaintiff is also
3 required to file original documents with original signature.

4 Plaintiff seeks additional time to comply with the Order to Comply with Filing Fee
5 Requirements (ECF No. 6). The decision to grant an extension of time is discretionary
6 with the court. Fed. R. Civ. P. 6(b). Because Plaintiff is proceeding *pro se*, the court will
7 grant him an additional **thirty (30) days** to either complete and file a financial affidavit as
8 required by 28 U.S.C. § 1915(a)(1), or to pay the \$350.00 filing fee. Accordingly, **IT IS**
9 **ORDERED** Plaintiff's Motions (ECF Nos. 8 & 9) are **GRANTED**.

10 **IT IS FURTHER ORDERED** the District Court Executive shall **STRIKE** the
11 Report and Recommendation to dismiss this action for failure to prosecute under Fed. R
12 Civ. P. 41(b) (ECF No. 7). Should Plaintiff fail to either submit a completed financial
13 affidavit, or to pay the full filing fee, within thirty (30) days, the court will again
14 recommend dismissal of this action.

15 **IT IS SO ORDERED.** The District Court Executive is directed to enter this Order
16 and forward a copy to Plaintiff at the Hermiston, Oregon, address, along with a financial
17 affidavit for persons seeking to proceed *in forma pauperis*.

18 **DATED** this 28th day of March, 2011.

19 S/ James P. Hutton

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21 JAMES P. HUTTON
UNITED STATES MAGISTRATE JUDGE